



COUNTY OF LOS ANGELES
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County Counsel

September 3, 2008

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Robin Guerrero
Deputy Executive Officer
Board Operations

FROM: JOHN F. KRATTLI 
Senior Assistant County Counsel

RE: **Barbara Altman v. County of Los Angeles**
Los Angeles Superior Court Case No. SC 091 917

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation in the above-referenced matter. Also attached are the Case Summary, the Summary Corrective Action Plan, and the Corrective Action Plan.

It is requested that this recommendation, the Case Summary, the Summary Corrective Action Plan, and the Corrective Action Plan be placed on the Board of Supervisors' agenda for September 16, 2008.

JFK:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the lawsuit entitled Barbara Altman v. County of Los Angeles, Los Angeles Superior Court Case No. SC 091 917, in the amount of \$357,500, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Beaches and Harbors' budget.

This lawsuit arises from injuries sustained by a pedestrian who was struck by debris protruding from a pick-up truck driven by an employee of the Department of Beaches and Harbors.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Barbara Altman v. County of Los Angeles</u>
CASE NUMBER	SC 091917
COURT	Los Angeles Superior Court
DATE FILED	11/29/2006
COUNTY DEPARTMENT	Department of Beaches & Harbors
PROPOSED SETTLEMENT AMOUNT	\$375,500
ATTORNEY FOR PLAINTIFF	Girardi Keese John A. Girardi, Esq. (213) 977-0211
COUNTY COUNSEL ATTORNEY	Brian T. Chu Principal Deputy County Counsel (213) 974-1956
NATURE OF CASE	<p>On November 29, 2005, a County employee drove a Department of Beaches and Harbors pick-up truck on Pacific Avenue, hauling palm fronds in the truck bed to a disposal yard. At the same time, the Plaintiff was walking along the right side of Pacific Avenue. As the pick-up truck passed by the Plaintiff, a palm frond that was protruding excessively from the side of the truck bed struck the Plaintiff's head from behind her and she fell. As a result of the impact, the Plaintiff received soft tissue injuries to her neck which required cervical surgery to fuse two of her vertebrae. The Plaintiff also received injury to her lower back and claims loss of earnings from not being able to work.</p> <p>The Plaintiff filed suit for her injuries against the County, alleging that the</p>

employee either improperly loaded the palm frond or failed to secure it so that it would not shift during transit. She also contends that the employee drove too close to the right side of the road. The County contends that the Plaintiff was walking too far into the roadway and that her residual injuries are exaggerated. Considering the inherent risks and uncertainties involved in a trial, and the potential liability and potential exposure to an adverse verdict, the County proceeded with settlement negotiations and was eventually able to develop this recommended settlement with the Plaintiff.

PAID ATTORNEY FEES, TO DATE	\$32,163
PAID COSTS, TO DATE	\$10,885

Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	November 29, 2005
Briefly provide a description of the incident/event:	At approximately 12:45 p.m., a Beaches and Harbors (DBH) employee within its Facilities and Property Maintenance Division (FPMD) was driving a county-owned pickup truck southbound along Pacific Avenue, in the Venice area of the City of Los Angeles. The truck was carrying, in its bed, various debris including palm fronds removed from Venice Beach. At the time of the incident, the claimant was walking southbound along the west side of the street on a portion of Pacific Avenue. As the pickup truck passed by the claimant, a palm frond was protruding from the right (passenger) side of the cargo bed and claimant contends it struck her behind her head.

1. Briefly describe the root cause of the claim/lawsuit:

(1) The DBH truck hauling the debris was not outfitted with tie-down hooks, which could have been used to more completely secure the debris load and prevent the palm frond from shifting and protruding outside the truck bed, and (2) DBH staff training may not have been sufficient to ensure that personnel followed the proper procedures in loading and securing debris loads.

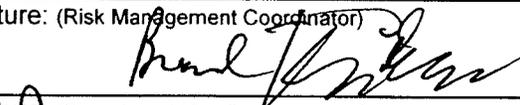
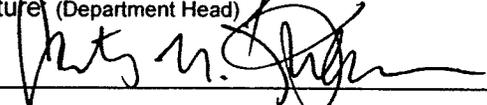
2. Briefly describe recommended corrective actions:
 (Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

Corrective Action Step #001: For those DBH pickup trucks not already so equipped, install tie-down hooks in the truck beds in order to sufficiently secure materials loaded into them and ensure that these hooks are maintained in working condition by monitoring their condition through a daily DBH vehicle condition checklist.
Due Date: 10/3/08
Responsible Party: Division Chief, FPMD

Corrective Action Step #002: Conduct annual training sessions for all DBH employees directly involved in transporting materials to review proper procedures for loading and securing materials transported in DBH vehicles. This training will address materials removed from the beach and Marina del Rey (e.g., plants, trees or driftwood) or otherwise transported by staff throughout the year. New employees who are hired after an annual training session will receive the training from FPMD staff as part of their initial driver training.
Due Date: 3/6/09
Responsible Party: Human Resources Manager

Corrective Action Step #003: Instruct all DBH staff to immediately notify the Department Safety Officer of any incident, no matter the time of the incident. To the extent an incident occurs during his/her regular working hours, the Safety Officer will immediately go to the site of the incident to commence an incident investigation. During his/her days off, the Safety Officer will have up to 72 hours to commence the incident investigation, depending upon his/her judgment of the incident's severity. For incidents involving FPMD staff, the initial incident report will be jointly prepared with and signed by a Beach Maintenance District Manager.
Due Date: 8/29/08
Responsible Party: Human Resources Manager

3. State if the corrective actions are applicable to only your department or other County departments:
 (If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)
- Potentially has County-wide implications.
- Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 8/12/08
Signature: (Department Head) 	Date: 8/12/2008

Corrective Action Plan



1. General Information

Date CAP document prepared:	August 11, 2008
Department:	Beaches and Harbors
Name of departmental contact person:	Walter Popoff
• title:	Executive Assistant
• phone number:	310-305-9579
• e-mail:	wpopoff@bh.lacounty.gov

2. Incident/Event Specific Information

Date of incident/event:	November 29, 2005
Location of incident/event:	Venice, California
Event contact person:	Walter Popoff
• phone:	310-305-9579
• e-mail:	wpopoff@bh.lacounty.gov
Claim adjuster: <small>(Third Party Administrator or County Counsel)</small>	Paul Zeglovitch (Carl Warren)
• phone number:	818-247-2206
If claim is in litigation, please complete the following:	
County Counsel Attorney:	Brian Chu
• phone number:	213-974-1956

3. Incident/Event Description:

Nature of incident/event:	Claimant says that she was struck on the back of her head by a palm frond protruding out of the bed of a county-owned pickup truck driven by an on-duty Department of Beaches and Harbors (DBH) staff person.
Provide a brief description of the incident/event:	At approximately 12:45 p.m., a DBH employee was driving a county-owned pickup truck southbound along Pacific Avenue, in the Venice area of the City of Los Angeles. The truck was carrying, in its bed, various debris including palm fronds removed from Venice Beach. At the time of the incident, the claimant was walking southbound along the west side of the street on a portion of Pacific Avenue. As the pickup truck passed by the claimant, a palm frond was protruding from the right side of the cargo bed and claimant contends it struck her behind her head.

4. Corrective Action Plan Problem Statement

Provide a written narrative of the incident/event problem statement:

DBH staff were transporting debris removed from an area of Venice Beach and were proceeding southbound along Pacific Avenue. The debris load, which contained palm fronds, shifted, causing one frond to protrude from the truck bed. This palm frond struck the claimant who was walking in the street. Claimant contends that the county driver improperly loaded the palm fronds. The Department contends that the palm frond shifted in transit. It is a violation of the California *Vehicle Code* to allow items to protrude more than 6 inches from the right (passenger) side of a vehicle.

5. Root Cause Analysis

Root Cause Analysis tool used:	5 Why Analysis.
Incident/event root causes:	<ol style="list-style-type: none"> 1. The palm frond that struck claimant was not sufficiently secured to keep it from shifting in transit while the pickup truck was traveling along Pacific Avenue. 2. DBH staff training may not have been sufficient to ensure that DBH staff followed the proper procedures in loading and securing debris loads.

6. Corrective Action Plan Steps

Task number:	001
Task name:	Installation of Tie-Down Hooks on DBH Pickup Trucks
System issue:	Equipment
Schedule start date:	August 4, 2008
Schedule completion date:	October 3, 2008
Responsible person:	Division Chief, Facilities and Property Maintenance Division (FPMD)
Task description:	For those DBH pickup trucks not already so equipped, install tie-down hooks in the truck beds in order to sufficiently secure materials loaded into them and ensure that all hooks are maintained in working condition by monitoring their condition through a daily DBH vehicle condition checklist.

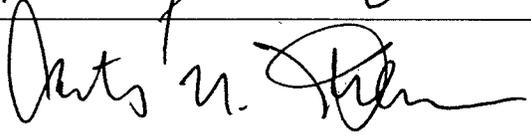
Task number:	002
Task name:	Safety Instruction for Loading and Securing Materials
System issue:	Process/procedure
Schedule start date:	October 6, 2008
Schedule completion date:	March 6, 2009 and then every year thereafter in October (starting in October 2009).
Responsible person:	Human Resources Manager
Task description:	<p>The Safety Officer, along with supervisors in FPMD, will conduct training sessions for all DBH employees directly involved in transporting materials to review proper procedures for loading and securing materials transported in DBH vehicles. The initial training period is scheduled to begin as soon as the hooks are installed. It will cover how to load and secure materials removed from the beach and Marina del Rey (e.g., plants, trees or driftwood) or otherwise transported by staff throughout the year. Ongoing training coordinated and administered by the Safety Officer will occur once a year in October. New employees who are hired after this annual training session will receive the training from FPMD supervisory staff as a part of their initial driver training.</p>

Task number:	003
Task name:	Expanded Incident Investigation Procedures
System issue:	Process/procedure
Schedule start date:	August 15, 2008
Schedule completion date:	August 29, 2008

Responsible person:	Human Resources Manager
Task description:	<p>Instruct all DBH staff to immediately notify the Department Safety Officer of any incident, no matter the time of the incident. To the extent an incident occurs during his/her regular working hours, the Safety Officer will immediately go to the site of the incident to commence an incident investigation. During his/her days off, the Safety Officer will have up to 72 hours to commence the incident investigation, depending upon his/her judgment of the incident's severity. For incidents involving FPMD staff, the initial incident report will be jointly prepared with and signed by a Beach Maintenance District Manager.</p>

7. Review and Authorization

The department has reviewed the incident/event investigation, Root Cause Analysis documentation and Corrective Action Plan and has taken all appropriate corrective actions required.

Review and authorization steps:	Signature:	Date:
Document reviewed by department Risk Management Coordinator:		8/12/08
Document reviewed by department head or designee.		8/12/2008